

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Elsie M. Myard,

Civil No. 10-4742 (PAM/AJB)

Plaintiff,

v.

ORDER

Tallarico Antony, Stager
Chad, Wong Carlos,
Thomas Quinlan, Freiermuth
Daniel, Aguirre Lois,
and Adam Bailey,

Defendants.

This matter is before the Court on the Report and Recommendation (“R&R”) of Chief Magistrate Judge Arthur J. Boylan dated December 2, 2010. The R&R recommended dismissal of all Defendants with the exception of Tallarico Antony. Plaintiff filed timely objections to the R&R. For the reasons that follow, the Court denies Plaintiff’s objections, and adopts the R&R.

As the R&R notes, the allegations in the Complaint specifically mention only Defendant Tallarico Antony. The Complaint contains no mention of the other Defendants, except in the caption. To make out a claim against the other Defendants, the Complaint must state specifically what each Defendant did or failed to do that allegedly violated Plaintiff’s rights under the United States Constitution. Because the Complaint does not mention any other Defendant, the R&R recommended that those Defendants be dismissed from this action.

According to statute, the Court must conduct a de novo review of any portion of the Magistrate Judge's opinion to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Plaintiff's Objections are a more detailed version of the allegations in her Complaint. Indeed, she outlines each Defendant's alleged actions that gave rise to the Complaint. However, Plaintiff cannot amend her Complaint by filing objections to a Report and Recommendation. Rather, she must file an Amended Complaint that remedies the deficiencies noted in the R&R.

Accordingly, the Court will adopt the R&R. However, the dismissal recommended in the R&R will be stayed for a period of 30 days, until January 18, 2011, to allow Plaintiff to amend her Complaint to include the allegations made in her Objections. Should Plaintiff fail to amend the Complaint within that time, however, the Court will dismiss all Defendants save Tallarico Antony from this action.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The Report and Recommendation (Docket No. 3) is **ADOPTED**;
2. Plaintiff shall file an Amended Complaint remedying the deficiencies noted in the Report and Recommendation on or before January 18, 2011;
3. If Plaintiff fails to amend her Complaint within the time period permitted, the Court will dismiss Defendants Stager Chad, Wong Carlos, Thomas Quinlan, Freiermuth Daniel, Aguirre Lois, and Adam Bailey from this action;
4. Plaintiff's application to proceed in forma pauperis (Docket No. 2) is **GRANTED**; and

5. The United States Marshal is directed to effect service of process on Defendant Tallarico Antony, in accordance with Rule 4 of the Federal Rules of Civil Procedure.

Dated: Thursday, December 16, 2010

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge